

Iowa Public Information Board Annual Report *As Required by Code Subsection 23.6(12)* **2020**

Iowa Code chapter 23, enacted in 2012 and amended in 2013 to establish the Iowa Public Information Board (IPIB or Board), requires the Board to “prepare and transmit to the governor and to the general assembly, at least annually, reports describing complaints received, board proceedings, investigations, hearings conducted, decisions rendered, and other work performed by the board.” This report reviews the work performed by the Board in 2020 in accordance with the directives of Chapter 23.

From the Executive Director’s Desk –



This has been another busy year at the IPIB. We are currently fully staffed with three individuals working daily to promote and educate Iowans about transparency within our government. The IPIB works with Iowa’s governmental bodies, the media, and the citizenry at large. For the past several years, the annual number of contacts through our agency has remained steady, ranging in the neighborhood of 800 per year. We are seeing growth in the number of formal complaints that are filed with us. In 2020, we received 133 formal complaints. I believe that people have discovered our ability to address their concerns. During this year of the pandemic, the IPIB has been responsive to concerns and questions regarding how open meetings and public records laws are affected.

As we look forward, the IPIB Board and staff strive to resolve complaints in an efficient way while also providing effective educational outreach to Iowa’s governmental bodies. The IPIB is open to receiving your questions, thoughts, or concerns about Iowa’s open meetings and public records laws.

Margaret E. Johnson, J.D.
Executive Director

Board Members

Joan Corbin • E.J. Giovannetti • Barry Lindahl • Keith Luchtel • Monica McHugh
Rick Morain • Julie Pottorff • Suzan Stewart • Stan Thompson

The Board was created to provide a free, efficient way for Iowans to receive information and resolve complaints related to chapters 21 and 22, Iowa's open meetings and public records laws. The agency's case load has far exceeded expectations since its inception, with the Board receiving 133 formal complaints and answering 610 informal inquiries in 2020. The vast majority of complaints were settled informally, with the Board staff negotiating a compromise that satisfied both parties, reduced community conflict, and resulted in increased government transparency. In addition, Board staff conducted training sessions for state, county, and city officials. The Board identified continuing problems in the areas of meeting notice, governmental subcommittees, and law enforcement records.

In particular, the number of informal inquiries, from around the state, establishes the value of the services of the IPIB. Many complaints are handled within 24 hours and without the need for formal IPIB action. Examples include:

- A city clerk had questions about electronic meetings using video conferencing as the city hall was closed to the public. The clerk was referred to the Governor's proclamation posted on the IPIB website and to Iowa Code section 21.8 regarding electronic meetings.
- A citizen from southwestern Iowa wanted to know if it is permissible to not allow public comment at a city council meeting. They were referred to Iowa Code section 21.7 for rules of conduct at meetings.
- A woman from Des Moines asked about the proper procedure a person should use to request information from the city. She was directed to the custodian of the record and shown the sample request letter available on the IPIB website.
- A city attorney with questions about the confidentiality of draft documents as public records was referred to previous ruling by the IPIB posted on our website and Iowa Code section 22.7(65).
- The Mayor of a small community asked about the procedure to go into a closed session. He was referred to Iowa Code section 21.5 to review prior to the meeting. It was suggested that the city clerk develop a step by step check-list to ensure that the council is compliant with the code.
- A city clerk had questions about charging fees for the production of public records. She was referred to Iowa Code section 22.3 for guidance. It was recommended that the city set a policy on the issue in accordance with Iowa Code chapter 22.

The Board

The first Board was appointed by Governor Branstad in July, 2012. Since then the Board has met at least bi-monthly. The Board achieved operational status on July 8, 2013, with the opening of an office on the third floor of the Wallace Building in the Capitol Complex.



Iowa Code chapter 23 states no more than three members of the nine-member board shall represent the media and not more than three shall represent cities, counties, or other local governments. The members serve staggered four-year terms. The Board must be balanced by political party and gender. The Board appoints a chair and vice chair from among its members. The Board is an independent agency. In 2020, the Board met for twelve monthly meetings.

Current board membership:

- **Joan Corbin, Pella (Democrat) (2020-2024)** – Joan is a community volunteer and serves on the Pella Community School District Board. Currently serving as the President of the school board and is in her fifth term with the district. She is the past president of the Iowa Association of School Boards.
- **E.J. Giovannetti, JD, Urbandale (Republican) (2018-2022)** – E.J. is currently active as an attorney for Hopkins & Huebner, P.C. and has been a public servant for the past 40 years, including being Mayor of the City of Urbandale (20 years) and member of the Board of Supervisors (10 years).
- **Barry A. Lindahl, JD, Dubuque (Democrat) (2020-2024)** - Barry served in the City of Dubuque City Attorney's Office from 1975 to the present. He was City Attorney from 1983 to 2016. He is now Senior Counsel. Barry is a University of Iowa College of Law Adjunct Faculty Member. Barry is the author of West Publication treatises on Iowa law.
- **Keith Luchtel, JD, Clive (Republican) (2018-2022)** – Keith was the first Executive Director for the IPIB. He retired from the Nyemaster Goode Law Firm in Des Moines in 2012. He has served more than 25 years as legislative counsel for the Iowa Newspaper Association and the Iowa Broadcasters Association.
- **Monica McHugh, CPA, Zwingle, (Vice Chair) (Republican) (2018-2022)** – Monica is an accountant for Bridon USA in Dubuque, IA and owns Monica J McHugh, CPA, PC, a small tax and accounting practice. She also serves as co-chair of the Jackson County Zoning Board of which she has been a member of since 2010.
- **Rick Morain, Jefferson, (Unaffiliated) (2018-2022)** – Rick is a retired longtime editor-publisher of the Jefferson Bee and Herald newspapers and a past president of the Iowa Newspaper Association.
- **Julie Pottorff, JD, Des Moines, (Chair) (Democrat) (2020-2024)** – Julie retired from the Iowa Department of Justice in 2013. She joined the Department in 1979 as a staff attorney. She was appointed as the Division Director for the Administrative Law Division in 1990 and then appointed as a Deputy Attorney General in 1994.
- **Suzan Stewart, JD, Sioux City (Republican) (2018-2022)** - Suzan served as legal counsel for MidAmerican Energy Company and its predecessors from 1980 until 2015 when she retired as Managing Senior Attorney. She serves on the city of Sioux City, Iowa, Planning and Zoning Commission and Board of Adjustment and has served on many state and local boards and commissions, including the Iowa Transportation Commission and the Iowa Board of Dentistry.

- **Stan Thompson, JD**, Clive (Republican) (2020-2024) – Stan is a shareholder in Dentons Davis Brown Law Firm in Des Moines and has been a practicing attorney for 36 years.

Board Staff:

Margaret E. Johnson, JD, was named the Executive Director on July 20, 2017. Previous to this appointment, she served as the interim and the deputy director of the Board since its inception. She received a bachelor's degree in Journalism from Iowa State University and a law degree from Marshall/Wythe Law School at the College of William and Mary. Her prior legal experience includes serving as a captain with the Army JAGC; assistant district attorney in the 4th Judicial District, Colorado; assistant county attorney for Teller County, Colorado; private practice; the El Paso County GAL office; contract prosecutor for the Iowa Attorney Disciplinary Board; and Fremont County, Iowa, county attorney. Her judicial experience is as a substitute juvenile magistrate in Colorado. She joined the staff on July 22, 2013. Ms. Johnson was honored in 2019 with the “Free Press Champion Award” given by the Iowa Center for Public Affairs Journalism.

Brett J. Toresdahl, CPM, serves as Deputy Director for the Board. He received his bachelor's degree in Political Science from Iowa State University. Prior to coming to work with the Board in July 2017, he led the ISBA Public Service Project as its Executive Director for 24 years working on pro bono and access to justice issues. Before that he served a term as Executive Assistant in the Office of Lieutenant Governor in Iowa which at that time was a stand-alone state agency and served as the President of the Senate. In 2019, he earned the Certified Public Manager designation through Drake University.

Zach Goodrich, JD, serves as Legal Counsel for the Board. He received his Bachelor of Arts from Simpson College and his Juris Doctor from Drake University. Prior to his current position, Zach worked in private practice, non-profit organizations, as well as various roles in politics and state government. Zach joined the IPIB staff in May, 2020.

The Board's vision

At its first meeting on July 19, 2012, the Board outlined its vision for the agency it was setting out to define. The minutes of that meeting state the Board said its operation should

- be inexpensive
- be convenient
- provide a one-stop service
- provide uniformity of information and
- provide consistency of information.

Transparency

The IPIB jurisdiction covers Iowa Code chapters 21 (open meetings) and 22 (public records). In that light, it is the goal of the Board to model and be the state's most transparent state agency. The IPIB routinely sends notice out earlier than the required 24 hours prior to all meetings and to anyone who requests. Over 150 citizens, media, and agencies are sent meeting notices, board packets, and other information related to IPIB activities.

In addition to distributing required tentative agendas, the Board also sends agenda materials and prior meeting minutes when notifying requestors about meetings. The Board also posts its agendas and minutes on the Board's website.

IPIB Year in Review

Staff processed 743 cases and inquiries in 2020. Not all are complaints as indicated below. Case inquiries arrive via the website, mail, phone, email, and office contacts. The Case Management System (CMS) developed by staff assigns a number and case type to each, as well as statistical information and case notes. Prior to opening the office in 2013, it was anticipated the IPIB would see an annual case rate of 300 to 350. The 743 cases/inquiries opened in 2020 include:

Formal Complaints (133) – these cases require investigation and are processed for Board review as outlined in the Rules. Complainants have included citizens, media, and elected officials. Selected documents are posted on the IPIB website (www.ipib.iowa.gov) under “Rulings.”

Advisory Opinions (7) – these cases require research and investigation and are processed for Board review as outlined in the Rules. Requests have been made by agencies, media, and private citizens. The finalized opinions are published to the IPIB website under “Rulings.”

Declaratory Orders (1) – these requests involve research, investigation, and coordination with governmental bodies and other organizations as outlined by the IPIB administrative rules prior to presentation to the Board.

Informal Complaints (74) – these informal cases also require investigation, research, and mediation. Informal Complaints are resolved without the filing of a formal complaint to the Board. The majority of these complaints in 2020 were from citizens requesting assistance in obtaining records or accessing meetings.

Informal Requests (399) – these informal cases require review and research. Informal Requests can normally be resolved within 24 hours. They do not require Board review and action under the Rules. Often the requestor is a public official, staff, or legal counsel seeking assistance in the interpretation of Chapters 21 and 22 or a member of the public with a question.

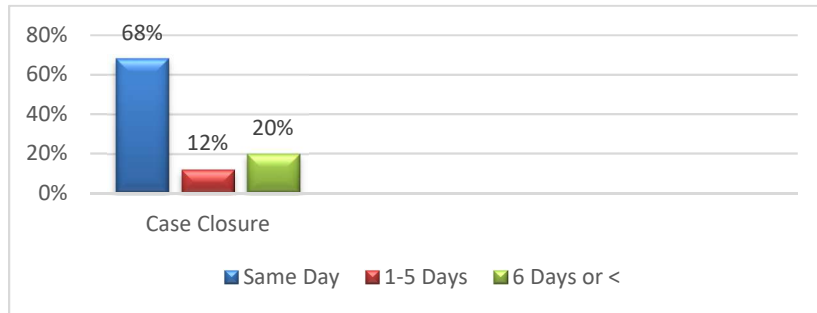
Miscellaneous Others (129) – this category includes other requests for assistance that do not fall within the above categories, such as training, legislative issues, research, etc.

In 2020, the requestor breakdown was citizen 49%, media 13%, and government official or staff 38%.

Decisions Rendered

Of the 133 formal complaints filed in 2020, 16 remained open at year's end, primarily to complete the intake or achieve an informal resolution. Accepted complaints progressed through informal resolution as envisioned by Iowa Code section 23.9, resulting in remedial plans that were negotiated by IPIB staff. In 2020, the Board did not initiate any contested cases.

Some cases were dismissed as not timely filed - outside the Board's sixty-day period of jurisdiction. Also, some requests seek assistance on problems that are not within the Board's jurisdiction. Frequently staff has been able to be of assistance on an informal basis to help citizens obtain a satisfactory result with the cooperation of public officials in other agencies.



In 2020, 68% of the incoming matters were resolved in less than a day, 12% were resolved in one to five calendar days, and 20% were resolved in six or more calendar days.

Investigations

The investigatory phase of most cases occurs in the process of conciliation, the preferred method of dispute resolution. Good cooperation among parties has been the rule, not the exception. The occasional exception has been overcome with patient persistence and the cooperation of government bodies and the attorneys who represent the involved governments.

Hearings Conducted

There were no formal hearings held in 2020.

At year's end, there were no contested case proceedings pending. Two cases have been submitted for appeal to the Iowa Supreme Court. One concerns a public record (chapter 22) request to the City of Burlington and the Iowa Department of Public Safety. The other involves a public records request to the Polk County Assessor office. An additional matter has been filed for further review to Polk County District Court.

Board proceedings

All IPIB meeting agendas and minutes for the past year are available on the website (www.ipib.iowa.gov).

Board Outreach and Training

IPIB staff represented the Board at events and trainings. In most cases presentations were made concerning the operation of the Board, its goals, and its powers and duties. The Board has made it known to civic, law enforcement, local government, media, and professional organizations that it welcomes the opportunity to provide speakers and training opportunities. In 2020, staff attorneys also provided two state-wide presentations concerning modifications made to open meetings and public records laws by the Governor's proclamations.

All presentations emphasize the statutory goal, embraced by the Board, of using a conciliatory approach to solving transparency issues. Building a reputation as a convenient resource to be used free of charge by local government officials and custodians of public records is a key Board goal. Board staff also continues to serve on professional boards and on informal research committees to provide input on transparency goals.

Resources and activities

The IPIB met twelve times in open meetings in 2020 to review cases and conduct other required business. Board committees have been active to focus on several tasks including:

- Developing and implementing a communications plan
- Developing and implementing a legislative recommendations process and drafting proposed legislation
- Reviewing and revising administrative rules

Committees met seven times throughout the year in open meetings.

Board tasks continued in 2020 include:

---**Website.** The IPIB website, www.ipib.iowa.gov, opened in late August 2013. The website includes the full text of Chapters 21, 22, and 23. It also includes questions and answers (FAQs) about various issues, copies of all formal complaint decisions, all minutes and agendas for the IPIB meetings, activities of the IPIB, and contact information. The website also has links that make it possible to file a formal complaint with or to ask a question of the IPIB. Statistics from the web host for January through December 2020 show that 20,408 visitors viewed our website. Around 86% of the visitors to the website were new, first-time visitors.

A training PowerPoint presentation is a feature that is hosted on the website: “Iowa Sunshine Law – Open Meetings and Open Records in Iowa.” The free training program is available to any group, agency, governmental body, or individual wanting basic, comprehensive training on Chapters 21 and 22. This continues to be a valuable resource.

---**A coordinated training program.** The IPIB continues to coordinate with the Iowa League of Cities, the Iowa State Association of Counties, the Iowa Association of School Boards, the Iowa Newspaper Foundation, the Iowa Broadcasters Association, and the Iowa Freedom of Information Council to present training opportunities for their constituents and the general public. Development of the website training program (above) was an integral part of developing a universal training curriculum for this combined effort.

In addition, IPIB staff drafted and published educational articles monthly. The articles are posted on the website and emailed to the IPIB distribution lists.

---**Information policies and processes established.** The IPIB maintains an email distribution list. Anyone can be added to the list to receive copies of all general notice items such as meeting notices, agendas, board packets, and

minutes. Other general interest items are also circulated on this list. The policies and processes reflect the Board's transparency goal stated above.

---Establishing Board goals and metrics to measure progress. The Board has established a case management system that continues to be refined and adjusted as experience warrants. This system allows for statistical reporting on audience served (citizen, media, government), location by city and county, the length of time a case is open, whether a case meets the jurisdictional requirements of Chapter 23, types of cases (complaint, opinion, ruling), and whether the complaint is focused on state, city, county, school, or other governmental bodies. The system also allows staff to enter notes and comments and upload emails and other documents to the case record.

Feedback from people who contact the IPIB:

- "I love how quickly your office responds to my questions." – A northeast Iowa newspaper editor
- "I would like to commend you on your website, it is very informative and extremely easy to navigate."
– Waterloo citizen
- "Every time I've called I've been helped immediately and in a very friendly way. I am very impressed with how you operate." – Central Iowa attorney
- "I believe the city would have never allowed my business or I access to the records, without the help of the IPIB. My company and I would like to personally thank you and all the members of the IPIB for your assistance in this matter." Winneshiek County citizen
- "Thanks for your response to this matter. I appreciate your process and confirmation." Southeast Iowa Sheriff
- "Just a quick follow up to thank you for the communication and redirection to the appropriate agency." Des Moines citizen
- "Thank you, Margaret. And thank you again for taking time to do the training for the county." Crawford County

REVIEWED AND APPROVED ON JANUARY 21, 2021.

Julie Pottorf, Chair